

U.S.S.N. 10/066,823

Remarks

Claims 26, 29, 31, and 33 have been amended. The amendments to claims 26, 29, 31, and 33 have been made for clarity and not for reasons related to patentability. Support for the amendment to claims 26, 29, 31, and 33 can be found in general throughout Applicants' Specification, and in particular, for example, at page 2, lines 22-23.

Applicants thank the Examiner for kindly indicating that claims 26-28 and 35-40 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph.

Applicants submit that the amendments to claims 26, 29, 31, and 33, which now recite "a composition comprising an elastomer disposed in said chamber," render moot the rejection of claims 26-66 under 35 U.S.C. § 112, second paragraph, and respectfully request that it be withdrawn.

Claims 29-34 and 41-66 stand rejected under 35 U.S.C. § 102(b) over Hansen U.S. 4,401,271 (the '271 patent).

The '271 patent discloses an aerosol can that sprays in a fan shaped pattern.

Claim 29 is directed to a device capable of spraying a composition. The device includes a chamber and a composition that includes a carboxylated elastomer disposed in the chamber. The composition is water reducible, and, when dry, exhibits a toughness of at least about 20 in-lb. Under 35 U.S.C. § 102(b), the subject matter of a claim is anticipated if each and every element set forth in the claim is found in a single prior art reference. *Verdegaal Bros., Inc., v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987). If the reference fails to teach even one limitation of the claimed invention, then the claim is not anticipated under § 102(b). *Atlas Powder Co. v. E.I. du Pont De Nemours & Co.*, 750 F.2d 1569, 1574 (Fed. Cir. 1984). The '271 patent does not teach a composition that includes a carboxylated elastomer. Instead the '271 patent discloses a solution that includes a polychloroprene copolymer, which is identified as NEOPRENE AC from E.I. du Pont De Nemours & Co. NEOPRENE AC is polychloroprene (2-chlorobutadiene 1,3). *See*, 1 Michael Ash & Irene Ash, *Handbook of Paint and Coating Raw Materials*, page 563 (2d ed. 2003), a copy of which is attached at Tab 1. Polychloroprene (2-chlorobutadiene 1,3) is not a carboxylated elastomer as evidenced by its chemical

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formula, i.e. there are no carboxyl groups present. Likewise, polychloroprene, i.e., neoprene, is not a carboxylated elastomer, as demonstrated by its chemical formula. See, Richard J. Lewis, Hawley's Condensed Chemical Dictionary, pages 782 and 896 (13th ed. 1997), a copy of which is attached at Tab 2. Therefore, the disclosure in the '271 patent of NEOPRENE AC polychloroprene copolymer does not constitute a teaching of a carboxylated elastomer. To the extent that Applicants' Specification has caused any confusion with respect to the chemical nature of polychloroprene, Applicants hereby clarify that the passage at page 5, line 18 of Applicants' Specification states that the terms "neoprene" and "polychloroprene" are synonyms. The passage does not state that polychloroprene and neoprene are inherently carboxylated elastomers. This scientific fact is evidenced by the documents attached at Tab 2. The '271 patent thus fails to teach a required element of the device of claim 29. Accordingly, the rejection of claim 29 under 35 U.S.C. § 102(b) over the '271 patent has been overcome, and Applicants respectfully request that it be withdrawn.

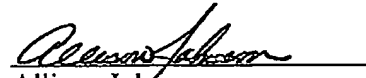
Claims 30-34 and 41-66 are distinguishable under 35 U.S.C. § 102(b) over the '271 patent for at least the same reasons set forth above in distinguishing claim 29.

The claims now pending in the application are in condition for allowance and such action is respectfully requested. Applicants respectfully request a teleconference interview prior to the next action should the next action be other than a Notice of Allowance.

Please charge any additional fees owing or credit any over payments made to Deposit Account No. 501,171.

Respectfully submitted,

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